



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,177	07/31/2003	Rence M. Kovales	RSW920000128US2	9830
43168 7590 07/17/2007 MARCIA L. DOUBET LAW FIRM PO BOX 422859 KISSIMMEE, FL 34742			EXAMINER PATEL, HEMANT SHANTILAL	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/632,177	Applicant(s) KOVALES ET AL.	
	Examiner Hemant Patel	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,9,11,14,15,17,18,20-24,28,34,37,90 and 99-116 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9,11,14,15,17,18,20-24,28,34,37,90 and 99-116 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Applicant Response dated May 1, 2007 to an Office Action dated February 8, 2007 is entered. Claims 1, 9, 11, 14-15, 17-18, 20-24, 28, 34, 37, 90, 99-116 are present in this application.

Response to Amendment

2. Applicant's arguments with respect to claims 1, 9, 11, 14-15, 17-18, 20-24, 28, 34, 37, 90, 99-116 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 34, 37, 114, 115 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (US Patent No. 5,434,910).

Regarding claim 34, Johnson teaches of a method of enhancing voice mail messages for playback to a listener, comprising steps of:

creating a voice mail message for the listener, by a caller using a telephone device (col. 4, ll. 14-22; using phone to leave voice messages);

identifying, by the caller using the telephone device while creating the voice mail message, a plurality of message segments for segmenting the voice mail message (col. 4, ll. 64-col. 5, ll. 7; col. 10, ll. 28-36; using keypad to enter key sequences to mark a position in voice message);

selecting, by the caller using the telephone device, an audio file from among a plurality of available audio files to insert into the voice mail message between one or more selected pairs of successive ones of the message segments, such that the selected audio file is associated with the selected pair(s) of message segments (col. 4, ll. 64-col. 6, ll. 23; col. 10, ll. 16-col. 11, ll. 10; adding references to prerecorded audio files between message segments); and

inserting the selected audio file between the successive ones of the message segments in its associated pair(s) as the voice mail message is played back to the listener (col. 6, ll. 46-col. 7, ll. 12; col. 11, ll. 11-col. 13, ll. 29).

Regarding claim 37, Johnson teaches of inserting prerecorded audio file that includes names and phone numbers (col. 5, ll. 52-57; col. 6, ll. 60-col. 7, ll. 12)

Regarding claim 114, it recites a system performing a method substantially similar to the method as claimed in claim 34. Johnson teaches of such a system (Figs. 1-3 and the corresponding descriptions in the reference art). Refer to rejection for claim 34.

Regarding claim 115, refer to rejections for claim 114 and claim 37.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 9, 18, 20, 22, 28, 99-102, 107-109, 111-113, 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel (US Patent No. 5,943,402), and further in view of Brockenbrough (US Patent No. 7,203,286 B1).

Regarding claims 1, 99, Hamel teaches of creating, segmenting a voicemail message and performing various actions (recording annotation comment associated with a message segment) on each individual segment of the voicemail message using a telephone and listening to it by selecting individual segments (Figs 2A-2G, 3A-3B; col. 3, ll. 1-col. 9, ll. 18).

Hamel does not specifically teach that one of the actions performed on a voicemail segment is associating a background sound.

However, in the same field of endeavor, Brockenbrough teaches of a voice mail system in which the user leaving a voicemail message using a telephone is prompted to select various background sounds to be associated with a message and played concurrently with the voicemail message (col. 1, ll. 33-52; Figs. 3-8c and the corresponding descriptions in the reference art).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel to associate background sound with the message segment along with or instead of annotation as taught by Hamel in order to "allow the user to manipulate various sounds to be combined with the voice-mail message in order to improve the persuasiveness of the message" (Brockenbrough, col. 1, ll. 33-36).

Regarding claim 9, Brockenbrough further teaches of creating and applying user specific customized audio background to messages with the use of an access code (col. 5, ll. 16-52; col. 6, ll. 34-36; customized audio stationary).

Regarding claim 18, Brockenbrough further teaches of an apparatus that stores voicemail messages as well as background sound and offers background sounds to the caller (col. 3, ll. 25-30).

Regarding claim 20, Brockenbrough further teaches of transmitting background sound from a telephone device to an apparatus on which the voice mail message is being recorded (col. 1, ll. 21-25; playing background sound that is transmitted from the telephone that the user is using to leave a voicemail message).

Art Unit: 2614

Regarding claim 22, Brockenbrough further teaches of sending identifier using telephone keypad for identifying and associating background audio from a database (col. 3, ll. 31-39).

Regarding claim 28, Hamel further teaches of using DTMF of a telephone keypad for segmenting the voicemail message (col. 3, ll. 1-col. 8, ll. 29). Brockenbrough teaches of using telephone keypad i.e. DTMF to select sound files (col. 3, ll. 33-39).

Regarding claim 100, it recites a system performing a method substantially similar to the method as claimed in claim 1. Hamel teaches of such a system (Fig. 1) and Brockenbrough teaches of such a system (Figs. 1-2). Refer to rejection for claim 1.

Regarding claim 101, refer to rejections for claim 100 and claim 99.

Regarding claim 102, refer to rejections for claim 100 and claim 9.

Regarding claim 107, refer to rejections for claim 100 and claim 18.

Regarding claim 108, refer to rejections for claim 100 and claim 20.

Regarding claim 109, refer to rejections for claim 100 and claim 22.

Regarding claim 111, it recites a computer program product embodied on a computer-usable medium enabling a caller to perform a method substantially similar to the method as claimed in claim 1. Hamel teaches of such a computer program product (Fig. 1, items 22, 26, 30) and Brockenbrough teaches of a computer program product (Fig. 1, items 12, 14, 24, 28; Fig. 2, items 60, 64, 66, 68, 70). Refer to rejection for claim 1.

Regarding claim 112, refer to rejections for claim 111 and claim 99.

Regarding claim 113, refer to rejections for claim 111 and claim 28.

Regarding claim 116, Brockenbrough further teaches of using non-spoken background sound (col. 3, ll. 63-67; using music).

8. Claims 11, 15, 103, 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel and Brockenbrough as applied to claims 1, 100 above, and further in view of Goldberg (US Patent No. 6,125,175).

Regarding claim 11, Hamel and Brockenbrough do not teach selecting background sound based on date.

However, in the same field of endeavor, Goldberg teaches of inserting background sound based on time frame (date) (col. 4, ll. 48-49).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to provide selective background sounds based on time frame as taught by Goldberg in order to enable the user to preset background music for relatives and friends birthdays.

Regarding claim 15, Hamel and Brockenbrough do not teach of selecting background sound using the profile of a speaker.

However, in the same field of endeavor, Goldberg teaches of selecting background sound using the ANI of a speaker suggesting speaker specific preference (profile) and is selected without speaker's intervention (col. 5, ll. 16-18).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to include selecting speaker specific background music without speaker intervention as taught by Goldberg in order

to enable the automatic insertion of background music in preselected calls (Goldberg, col. 5, ll. 17).

Regarding claim 103, refer to rejections for claim 100 and claim 11.

Regarding claim 105, refer to rejections for claim 100 and claim 15.

9. Claims 14, 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel and Brockenbrough as applied to claims 1, 100 above, and further in view of Ogawa (US Patent No. 6,634,992 B1).

Regarding claim 14, Hamel and Brockenbrough do not teach of selecting background sound randomly.

However, in the similar field of communicating, Ogawa teaches of selecting stored image data randomly (col. 30, ll. 6-8).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to include random selection of data as taught by Ogawa so that "This gimmick, which prevents the display of the same image all the time, can help keep the exerciser interested in the exercise" (Ogawa, col. 30, ll. 8-10).

Regarding claim 104, refer to rejections for claim 100 and claim 14.

10. Claims 17, 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel and Brockenbrough as applied to claims 1, 100 above, and further in view of Yi (US Patent No. 6,407,325 B2).

Regarding claim 17, Hamel and Brockenbrough do not teach of storing music on a telephone device.

However, in the same field of endeavor, Yi further teaches of selecting background sound configured on a telephone device (device-specific) from which communication originates (Abstract).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to include background music from the telephone device as taught by Yi in order to eliminate the technique that provides added difficulties and produces poor results while adding background sound (Brockenbrough, col. 1, ll. 26-27).

Regarding claim 106, refer to rejections for claim 100 and claim 17.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel and Brockenbrough as applied to claim 20 above, and further in view of Newton (Newton's Telecom Dictionary, 16th edition, ISBN # 1-57820-053-9).

Regarding claim 21, Hamel and Brockenbrough do not teach of sound compression before transmitting.

However, in the same field of endeavor, Newton teaches of compression of information representation (Pg. 204).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to include information (sound)

Art Unit: 2614

compression as taught by Newton in order to save transmission time, capacity and storage space (Newton).

12. Claims 23, 24, 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel and Brockenbrough as applied to claims 1, 100 above, and further in view of Hinde (US Patent Application Publication NO. 2002/0082838 A1).

Regarding claims 23, 24, Hamel and Brockenbrough do not teach of transmitting address from telephone device.

However, in the same field of endeavor, Hinde teaches of sending URL address from the terminal to locate the contact data of the voice service (Paragraph 0071, 0077).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to include sending URL address as taught by Hinde in order to "retrieve a first page of the voice service associated with the plant" (Hinde, Paragraph 0071).

Regarding claim 110, refer to rejections for claim 100 and claim 23.

13. Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel and Brockenbrough as applied to claim 20 above, and further in view of Satou (US Patent No. 5,850,431).

Regarding claim 90, Hamel and Brockenbrough do not teach of extending call after finishing messaging.

However, in the same field of communication, Satou teaches of user finishing voice communication (col. 8, ll. 52-55, similar to finishing messaging) after instruction to send facsimile (col. 8, 27-32, similar to start sending background audio) causing the extension of call for transmission of facsimile data (col. 8, ll. 32-49), ending the call when the facsimile transmission ends (col. 8, ll. 55-58) and the user is on-hook.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel and Brockenbrough to allow session continuation of transmission of data even after user has finished voice communication and has gone on-hook as taught by Satou in order to enable the user to selectively end or continue voice call after transmission (Satou, col. 8, ll. 55-58).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Application Publication No. 2002/0082007

Hoisko

US Patent Application Publication No. 2003/0028380

Freeland

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant Patel whose telephone number is 571-272-8620. The examiner can normally be reached on 8:00 AM - 5:00 PM.


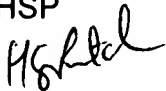
Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hemant Patel
Examiner
Art Unit 2614

HSP



FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600